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UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY M. SIVAVEC and ANGELO ANTHONY BRACCO

Application No. 09/682,141

09/682,142
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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on July 2, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On September 8, 2003, appellants filed an Appeal Brief (Paper No. 19). On November 6, 2003, appellants filed, via facsimile transmission, another copy of the Appeal Brief (Paper No. 21). On November 28, 2003, the examiner's mailed an Examiner's Answer (Paper No. 23). On page 3, section (8) of the Answer, the examiner states:

Claims 57 and 66 contain(s) substantial errors as presented in the Appendix to the brief. The errors in claims 57 and 66 are explained here in an effort to assist the Board. Accordingly, claims 57 and 66 are correctly written in Appendix A to the Examiner's Answer.

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Claim 66 is incomplete. Claim 66 was amended 3 Feb 2003 to include an additional paragraph at the end of the claim which is now missing from the claims in appellants' appendix.

A review of Appendix A to the Examiner's Answer reveals that claim 66 still contains errors as follows:

Claim 66, line 3: After "located" add "--in a monitoring well--."

In addition, on pages 3 and 4, section (9) of the Answer, the examiner cites prior art. However, the examiner has not provided file copies of the prior art relied upon in support of his rejections.

Accordingly, it is

ORDERED that the application is returned to the examiner to notify appellants to submit a corrected copy of claim 66 on appeal, or for the examiner to submit a corrected copy of claim 66 on appeal; to submit copies of the prior art references relied upon in the rejection of claims on appeal; and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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